

**BellSouth Corporation**  
Suite 900  
1133-21st Street, N.W.  
Washington, D.C. 20036-3351

mary.henze@bellsouth.com

**Mary L. Henze**  
Executive Director  
Federal Regulatory Affairs

202 463-4109  
202 463-4631 Fax

January 9, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

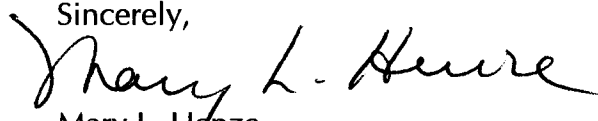
**Re: CC Docket 00-199, Comprehensive Review of Accounting Requirements  
WC Docket 02-269, Federal-State Joint Conference on Accounting**

Dear Ms. Dortch:

On January 7, 2003, the attached material was provided to Commissioner Terry Deason and Pat Lee of the Florida Public Service Commission and the Joint Conference on Accounting. This information was provided in response to questions raised during a December 4, 2002 meeting (ex parte notice dated December 6, 2002).

This notice is being filed pursuant to Sec. 1.1206(b)(2) of the Commission's rules. If you have any questions concerning this filing, please do not hesitate to contact me.

Sincerely,



Mary L. Henze

cc: Joint Conference Service List

## **Follow-Up to Issues from Meetings with Commissioner Deason and Pat Lee**

**Issue 1:** Is the FCC Phase II affiliate transaction rule change to eliminate the requirement that carriers make a fair market value comparison for asset transfers less than \$500,000 applied on a transaction by transaction basis or on an annual aggregate transaction basis per affiliate?

**Response 1:** In accordance with the Phase II Order, this threshold is to be applied to the aggregate annual transactions of each affiliate. Paragraph 90 of the FCC Phase II Order states:

“...the threshold should be applied to the aggregate transactions, for a given affiliate. Carriers, therefore, will not be required to perform the net book cost/fair market value comparison for the first \$500,000 of asset transfers, on a product-by-product basis, per year, per affiliate. In such cases, the asset should be recorded at net book cost. The net book cost/fair market value comparison would be required on a prospective basis once the total amount of asset transfers for a given year exceeds \$500,000.”

For example, assume that an affiliate had three computer asset transfers to BST during 2002 in the amounts of \$250,000 for the first, \$200,000 for the second, and \$300,000 for the third. Under this rule, the first two transactions would be recorded at net book cost because the cumulative amount is under \$500,000. The third transaction would cause the cumulative amount to exceed \$500,000 so the entire \$300,000 transaction would have to be recorded at the lower of net book cost or fair market value.

**Issue 2:** How significant are the asset transactions under \$500,000?

**Response 2:** Through October YTD 2002, BST's asset transfers under \$500,000 totaled \$1.3M or approximately 4% of total asset transfers.

**Issue 3:** Prior to the FCC Phase II Order, if a carrier wanted to record less than FDC or fair market value for assets/services purchased from affiliates or more than FDC or fair market value for assets/services sold to affiliates a waiver had to be filed with and approved by the FCC. What did this process involve and what did the waiver cover?

**Response 3:** The FCC Cost Allocation Manual (CAM) Order released May 7, 1993 provided that if a carrier wanted to use “non-standard” language to describe an affiliate transaction in its CAM it must seek a waiver from the Commission. “Non-standard” language includes terms such as “less than fully distributed cost” and “no charge”. The FCC has historically approved BellSouth's waivers on the grounds that allowing BellSouth to record services in this manner benefits ratepayers by enabling BellSouth to obtain services in a cost-effective manner. Attached as an example is a waiver filed by BellSouth on February 10, 2000 along with the related FCC Order approving the waiver. The FCC Phase II Order change regarding this issue did not alter how we have been accounting for these transactions. It only eliminated the administrative burden of having to ask for a waiver. These transactions and the way that they are recorded must still be disclosed in the CAM filed annually with the FCC.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Local Exchange Carriers'	)	AAD Nos. 92-22
Permanent Cost Allocation Manuals	)	through 92-35
For the Separation of Regulated and	)	
Nonregulated Costs	)	

**EXPEDITED PETITION FOR WAIVER**

BellSouth Telecommunications, Inc. ("BellSouth") hereby requests a waiver to permit BellSouth to use certain non-standard language in its Cost Allocation Manual ("CAM") pursuant to the Commission's *CAM Order* released May 7, 1993.<sup>1</sup>

The *CAM Order* held that the Commission's affiliate transaction rules do not govern contractual relationships between carriers and their affiliates, but rather govern "how the carriers must record the transactions on their regulated books of account."<sup>2</sup> The *CAM Order* recognized that certain affiliate transactions may confer benefits to the regulated entity in addition to those required under the affiliate transaction rules and that non-standard language may be required in the CAM to accurately reflect the substance of such transactions. The *CAM Order* also established that should a carrier use non-standard language to describe an affiliate transaction, the carrier must seek a waiver from the Commission. Such a waiver is to be granted and use of

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<sup>1</sup> *In the Matter of Local Exchange Carriers' Permanent Cost Allocation Manuals for the Separation of Regulated and Nonregulated Costs*, AAD Nos. 92-22 through 92-35, *Order*, 8 FCC Rcd 3105 (1993) ("*CAM Order*").

<sup>2</sup> *CAM Order* ¶ 14, note 35.

the non-standard term permissible, upon the carrier showing that the term "is more favorable for ratepayers than the terms provided in the affiliate transaction rules."<sup>3</sup>

On June 29, 1993, BellSouth filed a Petition for Waiver ("*First Petition*") seeking permission to use three non-standard terms in its CAM to describe certain affiliate transactions. For certain services received from non-regulated affiliates, BellSouth sought permission to use the terms "Less Than Fully Distributed Costs" and "No Charge." For certain services provided by BellSouth to non-regulated affiliates, BellSouth sought permission to use the non-standard term "More Than Fully Distributed Costs." In its *First Petition*, BellSouth demonstrated how the use of these non-standard terms – "No Charge", "Less Than Fully Distributed Costs", and "More Than Fully Distributed Costs" – benefited the ratepayer more than the standard terms identified in the affiliate transaction rules.

BellSouth listed all transactions known at that time to correspond to the three terms in its *First Petition*. BellSouth also filed a subsequent letter to supplement its *First Petition* on August 9, 1995 ("*1995 Letter*"). The *1995 Letter* listed other transactions that correspond to these non-standard terms. The Commission granted BellSouth's *First Petition* on January 24, 2000, stating:

We agree with BellSouth that, in this instance, recording at "greater than fully distributed cost" the revenues received for a limited set of services provided to its directory publishing affiliate appears to benefit ratepayers by recognizing increased revenues on its books of account. We further agree with BellSouth that recording certain services received from affiliates at "no charge" and "less than fully distributed cost" appears to benefit ratepayers

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<sup>3</sup> Cam Order ¶ 31.

by enabling the incumbent LEC to obtain services in a cost-effective manner.<sup>4</sup>

Additionally, the Commission agreed with BellSouth's original assertion that these non-standard terms used for booking these affiliate transactions "benefits ratepayer interests," and "is fully consistent with the public interest and the underlying policy goals." The Commission, however, limited its approval to "those services specified in BellSouth's waiver petition and supplement."<sup>5</sup> Thus, the Commission's *Waiver Order* granting the *First Petition* limits the waiver to the transactions itemized in the *First Petition* and *1995 Letter*.

BellSouth continues to utilize these three non-standard terms in its CAM, when appropriate, for transactions beyond those listed in the *First Petition* and *1995 Letter*. Just as with the *First Petition* and *1995 Letter*, each transaction, which BellSouth has used the non-standard terms to describe, inures to the benefit of the regulated entity by reducing BellSouth's cost of service, and in each case, the use of the standard term "Fully Distributed Costs" would incorrectly describe the transaction. BellSouth, therefore, files this Petition seeking a waiver for other BellSouth affiliate transactions that correspond to the same non-standard language approved by the Commission in its January 24, 2000 *Waiver Order*. A list of these specific transactions is attached as Exhibit 1. The Commission has already determined that the use of these non-standard terms – "No Charge," "Less Than Fully Distributed Costs," and "More Than Fully Distributed Costs" – and the types of transactions that correspond to these terms benefit the

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<sup>4</sup> *In the Matter of BellSouth Telecommunications, Inc.'s Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules*, AAD File No. 93-80, DA 99-0106, released on January 24, 2000 ("Waiver Order").

<sup>5</sup> The supplement the Commission references in the *Waiver Order* is the *1995 Letter* described above.

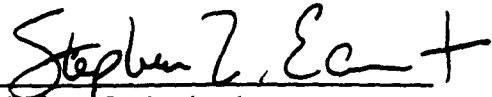
ratepayers. Accordingly, a waiver for use of these non-standard terms for the transactions listed should be granted.

BellSouth respectfully seeks expedited treatment for this Petition as these transactions impact the day-to-day operations of the incumbent LEC and its nonregulated affiliates.

Respectfully submitted,

**BELLSOUTH CORPORATION**

By its Attorneys

A handwritten signature in black ink, appearing to read "Stephen L. Earnest", is written over a horizontal line.

M. Robert Sutherland

Stephen L. Earnest

Suite 1700  
1155 Peachtree Street, N. E.  
Atlanta, Georgia 30306-3610  
(404) 249-2608

Date: February 10, 2000

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 10th day of February, 2000, served the following parties to this action with a copy of the foregoing **BELLSOUTH EXPEDITED PETITION FOR WAIVER**, reference AAD Nos. 99-22 through 92-35, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

Magalie Roman Salas, Commission Secretary\*  
Office of the Secretary  
Federal Communications Commission  
Portals II  
445 Twelfth Street, SW  
Suite TW-A235  
Washington, DC 20554

Kenneth P. Moran\*  
Chief, Accounting Safeguards Division  
Federal Communications Commission  
Portals II  
445 Twelfth Street, SW  
Washington, DC 20554

International Transcription Service, Inc.\*  
1231 20<sup>th</sup> Street, NW  
Washington, DC 20037

  
\_\_\_\_\_  
Lenora Biera-Lewis

\* **HAND DELIVERY**

# **LESS THAN FULLY DISTRIBUTED COST**

## **FROM BELLSOUTH CORPORATION**

Air and Ground Transportation  
Executive Support  
Treasury & Accounting  
Regulatory Support  
Internal Auditing  
Legal  
Personnel Services & Human Resources  
Technical Support  
Public Relations  
Security  
Support Services

## **FROM BCS**

Digital Networking Professional Services  
Sales (Equipment)

## **FROM BAT**

Billing & Customer Services  
Product Trial and Market Support  
System Integration & Support

## **FROM BSCC**

Joint Marketing  
Paging Fulfillment

## **FROM LMB**

Joint Marketing  
Advertising  
Project Management

## **FROM IMVI**

Advertising



## **LESS THAN FULLY DISTRIBUTED COST**

### **FROM MNS**

Network Professional Services  
Access and Web Hosting  
Router Management Services  
Customer Support

### **FROM HC**

Joint Marketing

### **FROM BBI**

Billing & Customer Services

### **FROM SELECT**

Joint Marketing

### **FROM .NET**

Internet Protocol Network Services/support

### **FROM BRI**

Executive Support

### **FROM BIS**

Information & Technology Services /

### **FROM BCAT**

Business Travel Services /

### **FROM NTA**

Emergency Preparedness Service /

## **LESS THAN FULLY DISTRIBUTED COST**

### **FROM BSGI**

Customer Support ✓

### **FROM BASC**

Treasury & Accounting  
Project Management

### **FROM BARM**

Customer Billing Services ✓

### **FROM BCCM**

Customer Support

## **NO CHARGE**

### **FROM HC**

Sublicense trademarks, trade names and patents

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

BellSouth Telecommunications, Inc.'s  
Permanent Cost Allocation Manual  
Waiver of Section 32.27  
of the Commission's Rules

ASD File No. 00-42

ORDER

Adopted: October 26, 2000

Released: October 27, 2000

By the Chief, Accounting Safeguards Division:

1. On February 10, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for waiver of the Commission's affiliate transactions rules, as codified in Section 32.27.<sup>1</sup> In its petition, BellSouth seeks permission to record the costs for specific services that it receives from certain of its nonregulated affiliates at "less than fully distributed cost" or "no charge." On March 29, 2000, BellSouth filed a supplementary petition for waiver, seeking to record an additional category of affiliate transaction,<sup>2</sup> at "less than fully distributed cost." By this order, we approve the two waiver petitions.<sup>3</sup>

2. Section 32.27 of the Commission's rules requires an incumbent LEC to record transactions received from its affiliated entities at the lesser of fully distributed cost or fair market value when, as here, no tariff rate, prevailing price or publicly filed agreement exists. "Fully distributed cost" includes the direct and indirect cost of providing a service. This assures that the captive telephony ratepayer receives the most reasonably advantageous result from the transaction and protects the ratepayer from subsidizing the LECs affiliate activities. Thus, if BellSouth is allowed, per its waiver request, to record services received from nonregulated affiliates at less than fully distributed cost on its regulated books of account, BellSouth's cost of service would be reduced, and the ratepayer will not incur unwarranted costs associated with the various affiliate transactions.

3. The transactions BellSouth seeks to record at less than fully distributed cost fall into the following broad categories: general and administrative services, marketing services, billing and customer

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<sup>1</sup> See 47 C.F.R. 32.27.

<sup>2</sup> See BellSouth Waiver Request, March 29, 2000. In this request BellSouth seeks permission to record sales services it receives from a nonregulated affiliate at "Less Than Fully Distributed Cost."

<sup>3</sup> The United States Telecom Association filed comments in support of BellSouth's waiver petition. See Comments of United States Telecom Association.

services and computer and other technical support services.<sup>4</sup> In addition, BellSouth seeks to record sublicense, trademark, and patent services it receives from a nonregulated affiliate at "no charge." In support of its waiver request, BellSouth argues that the Commission previously granted permission for BellSouth to use the three non-standard terms - "less than fully distributed cost," "no charge" - and "fully distributed cost" to record certain affiliate transactions.<sup>5</sup> BellSouth maintains that the affiliate transactions it lists in its current waiver petition correspond to that same three non-standard terms approved by the Commission's previous order.

4. Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.<sup>6</sup> In addition, a waiver request must be consistent with the principles underlying the rule for which a waiver is requested. After reviewing the transactions listed in BellSouth's waiver petition, we find that allowing BellSouth to record these services received from affiliates at "no charge" and "less than fully distributed cost" benefits ratepayers by enabling BellSouth to obtain services in a cost-effective manner. Moreover, such accounting treatment is consistent with previous waivers granted for similar affiliate transactions.<sup>7</sup> Because BellSouth's proposed accounting treatment benefits ratepayer interests, we find that it is fully consistent with the public interest and the underlying policy goals. Accordingly, we grant BellSouth's waiver request at this time.

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<sup>4</sup> See Attachment 1 for complete description of affiliate transactions listed in BellSouth's waiver requests.

<sup>5</sup> See BellSouth Waiver Request, February 10, 2000 at 3, citing, BellSouth Telecommunications, Inc. Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, *Order*, AAD File No. 93-80, DA 99-0106, released on January 24, 2000 (granting BellSouth permission to use non standard language to records affiliate transactions related to directory services).

<sup>6</sup> See *Northeast Cellular Tel. Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990); *WALT Radio v. FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969); 47 C.F.R. § 1.3.

<sup>7</sup> See BellSouth Telecommunications, Inc. Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, AAD File No. 93-80, DA 99-0106, released on January 24, 2000; See also United Telephone Companies' Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, *Order*, 13 FCC Rcd 24255 (Com. Car. Bur. 1998) (*United Waiver Order*); see also U S West, Inc.'s Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, *Order*, 13 FCC Rcd 24257 (Com. Car. Bur. 1998).

5. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, and 218-220, and Sections 0.91, 0.291, 1.3, 1.106, and 32.27 of the Commissions rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106, and 32.27, that the Petition for Waiver filed by BellSouth IS HEREBY GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



Kenneth P. Moran  
Chief, Accounting Safeguards Division

**ATTACHMENT 1**

1. In its waiver petition, BellSouth proposes to apply the term "less than fully distributed cost" to the following services that BellSouth receives from its nonregulated affiliates:

**From Bell South Corporation**

Air and Ground Transportation  
Executive Support  
Treasury and Accounting  
Regulatory Support  
Internal Auditing  
Legal  
Personnel Services and Human Resources  
Technical Support  
Public Relations  
Security  
Support Services

**From BCS**

Digital Networking Professional Services  
Sales (Equipment)

**From BAT**

Billing and Customer Services  
Product Trial and Market Support  
System Integration and Support

**From BSCC**

Joint Marketing  
Paging Fulfillment

**From LMB**

Joint Marketing  
Advertising  
Project Management

**From IMVI**

Advertising

**From MNS**

Network Professional Services  
Access and Web Hosting  
Router Management Services  
Customer Support

**From HC**

Joint Marketing

**From BBI**

Billing and Customer Services

**ATTACHMENT 1**

"Less Than Fully Distributed Cost" cont.

From Select  
Joint Marketing

From .NET  
Internet Protocol Network Services/support

From BRI  
Executive Support

From BIS  
Information and Technology Services

From BCAT  
Business Travel Services

From NTA  
Emergency Preparedness Services

From BSGI  
Customer Support

From BASC  
Treasury and Accounting  
Project Management

From BARM  
Customer Billing Services

From BCCM  
Customer Support

From BSPPC  
Sales

2. In its waiver petition, BellSouth proposes to apply the term "no charge" to the following service BellSouth receives from its nonregulated affiliate:

From HC  
Sublicense trademarks, trade names and patents